

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

*In re Ex Parte* Application of

Aniplex Inc., a Japanese corporation, and  
Toho Co., Ltd., a Japanese corporation,

Applicants.

Case No.:

**[PROPOSED]  
ORDER GRANTING THE *EX PARTE*  
APPLICATION BY ANIPLEX INC.  
AND TOHO CO., LTD. FOR AN  
ORDER PURSUANT TO 28 U.S.C. §  
1782 AUTHORIZING DISCOVERY  
FOR USE IN FOREIGN  
PROCEEDINGS**

1 Applicants Aniplex Inc. and Toho Co., Ltd. (“Applicants”) are Japanese  
2 corporations engaged in the business, among others, of producing and releasing “anime”  
3 TV series (i.e., various animated, Japanese-language television series).

4 Twelve anonymous users (the “Anonymous Individuals”) on “X” (formerly  
5 known as Twitter) have allegedly posted, without authorization, images on X from  
6 unreleased episodes (or unreleased versions of episodes) of the anime TV series, thereby  
7 allegedly violating Japanese law.

8 Applicants now seek limited discovery from X Corp. to identify the Anonymous  
9 Individuals, so it can bring a civil tort lawsuit against them in Japan.

10 The Court **GRANTS** Applicants’ ex parte application for an order pursuant to 28  
11 U.S.C. § 1782 authorizing discovery for use in foreign proceedings.

12 Section 1782 authorizes discovery where: (1) the person from whom the discovery is  
13 sought resides or is found in the district of the court to which the application is made; (2) the  
14 discovery is for use in a proceeding in a foreign or international tribunal; and (3) the  
15 applicant is a foreign or international tribunal or “any interested person.” *Khrapunov v.*  
16 *Prosyankin*, 931 F.3d 922, 925 (9th Cir. 2019).

17 The application, which is supported by declarations from Yuma Takahashi, an  
18 employee of Aniplex Inc., Koji Higashi, an employee of Toho Co., Ltd., and Hiroyuki  
19 Nakajima, an attorney registered to practice law in Japan, satisfies all three statutory  
20 requirements.

21 First, X Corp. is “found” in this district. X Corp. has its principal place of business in  
22 San Francisco, which is in this district. *See In re Todo*, No. 5:22-MC-80248-EJD, 2022  
23 WL 4775893, at \*2 (N.D. Cal. Sept. 30, 2022) (“*In re Super Vitaminas, S.A.*, 2017 WL  
24 5571037, at \*2 (N.D. Cal. Nov. 20, 2017) (finding that an office within the district  
25 satisfies the requirement); *In re TPK Touch Sols. (Xiamen) Inc.*, 2016 WL 6804600, at \*2  
26 (N.D. Cal. Nov. 17, 2016) (finding subpoenaed party was “found” within the district  
27

1 because it maintained an in-district office). Courts have also concluded that companies  
 2 are found in a district where ‘they conduct systematic and continuous local activities in  
 3 this district.’ *In re Qualcomm Inc.*, 162 F. Supp. 3d 1029, 1036–38 (N.D. Cal. 2016)’).

4 Second, the discovery is sought for use in anticipated proceedings in Japan. *See*  
 5 *Omori*, 2023 WL 5957172, at \*2 (“If a § 1782(a) request is made when there is no currently  
 6 pending proceeding, such a proceeding must be “likely to occur” or is “within reasonable  
 7 contemplation.”) (quoting *Intel Corp.*, 542 U.S. at 258–59). Applicants have consulted with  
 8 and hired an attorney in Japan about filing a civil lawsuit for violation of Japanese copyright  
 9 law, and for injunctive relief; their attorney advised them that Japanese law does not allow  
 10 for lawsuits against anonymous persons, so Applicants would need to discover the true  
 11 identities of the Anonymous Individuals to proceed. Nakajima Decl. ¶¶ 5, 9 & 17. *See Omori*,  
 12 2023 WL 5957172, at \*2 (finding requirement met where applicant sought discovery from  
 13 Meta to identify anonymous individuals before bringing civil suits in Japan).

14 Third, as Applicants will be litigants in the Japanese proceedings, each is plainly an  
 15 “interested person.” *Intel Corp.*, 542 U.S. at 256 (“No doubt litigants are included among, and  
 16 may be the most common example of, the ‘interested person [s]’ who may invoke § 1782”).

17 If the statutory requirements are met, the Court still retains discretion in determining  
 18 whether to grant an application under Section 1782. *Intel Corp. v. Advanced Micro Devices*,  
 19 *Inc.*, 542 U.S. 241, 264 (2004). In exercising this discretion, the Court considers the  
 20 following factors: (1) whether the “person from whom discovery is sought is a participant in  
 21 the foreign proceeding”; (2) “the nature of the foreign tribunal, the character of the  
 22 proceedings underway abroad, and the receptivity of the foreign government or the court or  
 23 agency abroad to U.S. federal court judicial assistance”; (3) whether the request “conceals an  
 24 attempt to circumvent foreign proof-gathering restrictions or other policies of a foreign  
 25 country or the United States”; and (4) whether the request is “unduly intrusive or  
 26 burdensome.” *Id.* at 264–65. All four factors weigh in favor of granting the application.  
 27

1           The relevant inquiry for the first factor—whether the person from whom the  
2 discovery is sought will be a participant in the foreign proceeding—is “whether the foreign  
3 tribunal has the authority to order an entity to produce the . . . evidence.” *In re Qualcomm*  
4 *Inc.*, 162 F. Supp. 3d 1029, 1039 (N.D. Cal. 2016). X Corp. will not be a party to the  
5 anticipated Japanese proceedings, so the discovery sought would be outside the Japanese  
6 tribunal’s jurisdictional reach. Nakajima Decl. ¶ 18. *See Omori*, 2023 WL 5957172, at \*3  
7 (“[T]he Japanese tribunal would be unable to compel Meta to produce discovery without the  
8 aid of § 1782.”).

9           As for the second factor, there is no evidence before the Court that courts in Japan  
10 would reject evidence obtained via Section 1782, and attorney Nakajima represents that  
11 Japanese courts are receptive to assistance in discovery from federal courts in the United  
12 States. Nakajima Decl. ¶ 20. Courts in this district have found that this factor weighs in favor  
13 of authorizing discovery where Japanese counsel made similar representations. *See, e.g.,*  
14 *Omori*, 2023 WL 5957172, at \*3; *Bitwallet Pte. Ltd. v. Meta Platforms, Inc.*, No. 22-mc-  
15 80182-HSG, 2023 WL 1111505, at \*3 (N.D. Cal. Jan. 30, 2023).

16           Next, for the third factor, Nakajima avers that Applicants are not attempting to  
17 circumvent foreign proof-gathering restrictions, and there is nothing before the Court to  
18 suggest otherwise. Nakajima Decl. ¶ 21.

19           Finally, the discovery sought is “narrowly tailored,” such that it is not unduly  
20 intrusive or burdensome. *In re Qualcomm Inc.*, 162 F. Supp. 3d at 1044. The proposed  
21 subpoena seeks information reasonably calculated to identify the users of the X accounts  
22 associated with the infringing posts. It does not seek the contents of any communications  
23 associated with the accounts, nor does it seek the disclosure of any sensitive credit card or  
24 other payment information. Nakajima has also demonstrated why all of the requested access  
25 log information is relevant and necessary to the anticipated civil suits in Japan. Nakajima  
26  
27

1 Decl. ¶ 25. *See Omori*, 2023 WL 5957172, at \*4 (granting subpoena on Meta that requested  
2 similar information to identify anonymous individual on Instagram).

3 Accordingly, the ex parte application is granted without prejudice to any subsequent  
4 motion to quash or modify the subpoena. Applicants may serve the proposed subpoena on X  
5 Corp.

6 **IT IS SO ORDERED.**

7  
8 Dated: \_\_\_\_\_

\_\_\_\_\_  
9 United States District Judge